

of 1986 (31 U.S.C. 3801–U.S.C. 3831) which provides for civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to Federal authorities or to their agents.

(b) Proceedings under this section will be in accordance with subpart L of 7 CFR part 1, “Procedures Related to Administrative Hearings Under the Program Fraud Civil Remedies Act of 1986.”

(c) The Director, Appeals and Litigation Staff, FCIC, or the Director's designee, is authorized to serve as Agency Fraud Claims Officer for the purpose of implementing the requirements of this section.

#### **§ 400.458 Scheme or device.**

(a) In addition to the penalties specified in this part, if a person has knowingly adopted a material scheme or device to obtain catastrophic risk protection, other plans of insurance coverage, or noninsured assistance benefits to which the person is not entitled, has evaded the provisions of the Federal Crop Insurance Act, or has acted with the purpose of evading the provisions of the Federal Crop Insurance Act, the person shall be ineligible to receive any and all benefits applicable to any crop year for which the scheme or device was adopted.

(b) A scheme or device may include, but is not limited to, creating or using another entity, or concealing or providing false information with respect to your interest in the policyholder, to evade:

(1) Suspension, debarment, or disqualification from participation in the program;

(2) The assignment of the non-standard classification system; or

(3) Ineligibility for a delinquent debt owed to FCIC or the insurance company.

[60 FR 37324, July 20, 1995]

#### **§ 400.459 Indebtedness.**

Any person who owes a debt to FCIC, or an approved insurance provider, arising from any program administered under the Act, and that debt is delinquent, will be ineligible to participate

in all such programs until the debt is paid in full or the person enters into an agreement, acceptable to FCIC or the approved insurance provider, to repay the debt. If the person provides adequate evidence to demonstrate that the amount of debt is in dispute, the person's application will be accepted or their insurance will remain in effect, but no indemnity payment will be made, until the disputed issue is resolved between that person and FCIC or the approved insurance provider through the available appeal process.

[60 FR 51321, Oct. 2, 1995]

#### **§§ 400.460–400.499 [Reserved]**

#### **§ 400.500 OMB control numbers.**

Office of Management and Budget (OMB) control numbers are contained in subpart H of 7 CFR part 400.

### **Subpart S [Reserved]**

### **Subpart T—Federal Crop Insurance Reform, Insurance Implementation**

AUTHORITY: 7 U.S.C. 1506(l) and 1506(p).

SOURCE: 61 FR 42975, Aug. 20, 1996, unless otherwise noted.

#### **§ 400.650 Purpose.**

The Reform Act requires FCIC to implement a crop insurance program that offers several levels of insurance coverage for producers. These levels of protection include catastrophic risk protection, and additional coverage insurance. This subpart provides notice of the availability of these crop insurance options and establishes provisions and requirements for implementation of the insurance provisions of the Reform Act.

[61 FR 42975, Aug. 20, 1996, as amended at 68 FR 37721, June 25, 2003]

#### **§ 400.651 Definitions.**

*Act.* The Federal Crop Insurance Act, as amended (7 U.S.C. §§ 1501 *et seq.*).

*Additional coverage.* A level of coverage greater than catastrophic risk protection.

*Administrative fee.* An amount the producer must pay for catastrophic,

and additional coverage each crop year on a per crop and county basis as specified in the Basic Provisions or the Catastrophic Risk Protection Endorsement.

*Approved insurance provider.* A private insurance company, including its agents, that has been approved and re-insured by FCIC to provide insurance coverage to producers participating in the Federal crop insurance program.

*Approved yield.* The actual production history (APH) yield, calculated and approved by the verifier, used to determine the production guarantee by summing the yearly actual, assigned, adjusted or unadjusted transitional yields and dividing the sum by the number of yields contained in the database, which will always contain at least four yields. The database may contain up to 10 consecutive crop years of actual or assigned yields. The approved yield may have yield adjustments elected under applicable policy provisions, or other limitations according to FCIC approved procedures applied when calculating the approved yield.

*Catastrophic risk protection.* The minimum level of coverage offered by FCIC which is required before a person may qualify for certain other USDA program benefits unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop. For the 1995 through 1998 crop years, such coverage will offer protection equal to fifty percent (50%) of the approved yield indemnified at sixty percent (60%) of the expected market price, or a comparable coverage as established by FCIC. For the 1999 and subsequent crop years, such coverage will offer protection equal to fifty percent (50%) of the approved yield indemnified at fifty-five percent (55%) of the expected market price, or a comparable coverage as established by FCIC.

*Catastrophic Risk Protection Endorsement.* The part of the crop insurance policy that contains provisions of insurance that are specific to catastrophic risk protection.

*Crop of economic significance.* A crop that has either contributed in the previous crop year, or is expected to contribute in the current crop year, ten percent (10%) or more of the total ex-

pected value of the producer's share of all crops grown in the county. However, a crop will not be considered a crop of economic significance if the expected liability under the Catastrophic Risk Protection Endorsement is equal to or less than the administrative fee required for the crop.

*Expected market price.* (price election) The price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting, packing, etc.

*FCIC.* The Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

*FSA.* The Farm Service Agency, an agency of the United States Department of Agriculture or any successor agency.

*Insurable interest.* The value of the producer's interest in the crop that is at risk from an insurable cause of loss during the insurance period. The maximum indemnity payable to the producer may not exceed the indemnity due on the producer's insurable interest at the time of loss.

*Intended crop.* A crop stated on the application as submitted on or before the sales closing date for the crop which the producer intended to plant in the crop year for which application is made.

*Linkage requirement.* The legal requirement that a producer must obtain at least catastrophic risk protection coverage for any crop of economic significance as a condition of receiving benefits for such crop from certain other USDA programs in accordance with § 400.655, unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

*Person.* An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a state or a political subdivision or agency of a state.

*Reform Act.* The Federal Crop Insurance Reform Act of 1994, Public Law 103-354.

*Secretary.* The Secretary of the United States Department of Agriculture.

*Substitute crop.* An alternative crop whose sales closing date has passed and that is planted on acreage that is prevented from being planted to an intended crop or where an intended crop is planted and fails.

*Zero acreage report.* An acreage report filed by the producer that certifies that the producer does not have a share in the crop for that crop year.

[61 FR 42975, Aug. 20, 1996, as amended at 63 FR 40634, July 30, 1998; 64 FR 40742, July 28, 1999; 68 FR 37721, June 25, 2003]

#### **§ 400.652 Insurance availability.**

(a) If sufficient actuarial data are available, FCIC will offer catastrophic risk protection, and additional coverage plans of insurance to indemnify persons for FCIC insured or reinsured crop loss due to loss of yield or prevented planting, if the crop loss or prevented planting is due to an insured cause of loss specified in the applicable crop insurance policy.

(b) Catastrophic risk protection coverage may be offered through approved insurance providers and through local offices of the Farm Service Agency specified by the Secretary. Additional coverage will only be offered through approved insurance providers unless there is not a sufficient number of approved insurance providers that offer such insurance within a service area.

(c) A person must obtain at least catastrophic risk protection for the crop on all insurable acreage in the county in which the person has a share on or before the sales closing date designated by FCIC for the crop in the county in order to satisfy the linkage requirements unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

(d) For additional coverage, in areas where insurance is not available for a particular agricultural commodity that is insurable elsewhere, FCIC may enter into a written agreement with a person to insure the commodity, provided that the person has actuarially

sound data relating to the production of the commodity that is acceptable to FCIC and that such written agreement is specifically allowed by the crop insurance regulations applicable to the crop.

(e) Failure to comply with all provisions of the policy constitutes a breach of contract and may result in ineligibility for certain other farm program benefits for that crop year and any benefit already received must be refunded. If a producer breaches the insurance contract, the execution of a waiver of eligibility for emergency crop loss assistance will not be effective for the crop year in which the breach occurred.

[61 FR 42975, Aug. 20, 1996, as amended at 68 FR 37721, June 25, 2003]

#### **§ 400.653 Determining crops of economic significance.**

To be eligible for certain other program benefits under § 400.655 the following conditions will apply with respect to crops of economic significance if the producer does not execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

(a) If a producer planted a crop of economic significance in the preceding crop year, and does not intend to plant the same crop in the present crop year, the producer does not have to obtain insurance coverage or execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop in the present crop year to comply with the linkage requirements. However, if the producer later decides to plant that crop, the producer will be unable to obtain insurance after the sales closing date and must execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop to be eligible for benefits as specified in § 400.655. Failure to execute such a waiver will require the producer to refund any benefits already received under a program specified in § 400.655.

(b) The producer is initially responsible to determine the crops of economic significance in the county. The